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C O N F I D E N T I A L COTONOU 000955

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STATE PLEASE PASS TO AF/W DANA BANKS  
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TAGS: PGOV KMCA BN

SUBJECT: BENIN'S JUDICIAL SYSTEM HEADS TOWARD IMPASSE

REF: COTONOU 887

Classified By: Amb. Gayleatha B. Brown for Reasons 1.4 b and d.

1.(U) Summary: The conflict between President Yayi and Benin's judges over Yayi's decision to stop enforcing judgments regarding land disputes (Ref) took a turn for the worse last week with a three-day strike by judges and a protest march by supporters of the President. The crisis threatens to worsen this week as Benin's Association of Magistrates began a three day strike on December 18 and has threatened to start a general, unlimited strike, on December 21 if President Yayi does not rescind his decision. A general strike by judges will have severe consequences as it will bring the criminal and civil justice systems to a complete halt. End Summary.

2.(U) Citing violations of separation of powers, Benin's Association of Magistrates walked off the job from December 11 - 13 after President Yayi did not heed their demand to end his moratorium on enforcing judgments in land disputes. President Yayi's supporters did not wait long to respond. On December 11, approximately 1,000 marchers went into the streets of Cotonou in a show of support for Yayi's decision. The Association for the Defense of Victims of Land Related Court Orders, a group with links to President Yayi, organized the demonstration.

3.(U) The Association of Magistrates will escalate the conflict this week with a three day strike starting on December 18. According to a Post contact in the Association, the Association will then meet on Friday, December 21 to evaluate what steps the GOB has taken to begin negotiations to resolve the crisis. According to the same contact, Benin's judiciary is extremely concerned with what it regards as the Executive's blatant interference in its power. The Association of Magistrates has threatened a general strike if the GOB does not reverse its order. A general strike by magistrates now, especially when the criminal courts are sitting, would have serious consequences for the prisoners held in pre-trial detention as their cases will be put on hold indefinitely. It would also have consequences for the upcoming municipal elections which are scheduled for February 17. Candidates for these elections need to have a certificate of their criminal record which must be certified by a magistrate. Without such a certificate they cannot stand for election.

4.(C) President Yayi raised the issue with the Ambassador on the margins of meetings on December 15 and 17. President Yayi defended his decision calling the magistrates "corrupt" and "criminal". He stated their actions lead to the destruction of people's homes and he was acting within his

constitutional power to protect public order. The Ambassador stressed with President Yayi the need to be mindful of the separation of powers and the implications a non-functioning judicial system would have on Benin's relations with the rest of the world.

5.(C) Comment: This judicial crisis has the potential for serious consequences. An unlimited strike by magistrates will put an incredible strain on a court system which, under present conditions, only processes 8 percent of its annual caseload. What is more troubling is that President Yayi does not appear to have an exit strategy for this crisis. While he has appointed a commission to negotiate a new means of resolving land disputes (Ref) it has not begun meaningful work. This commission also poses the problem of creating an entirely new, parallel, system to resolve disputes instead of using the existing judicial system. Without participation from the judiciary the commission stands little chance of succeeding. Additionally, President Yayi has put himself in a difficult position politically. His stand against magistrates who were ordering people to leave their homes after many years is politically popular, and it would be difficult for him to reverse himself. However, the magistrates are growing increasingly agitated and have the capacity to bring Benin's judicial system to a halt. Such a cessation of judicial decisions would have grave impacts on both the human rights' situation in Benin as prisoners would face an unending wait for a trial and could trigger a potential decline in Benin's "Rule of Law" indicators for MCC eligibility. End Comment.

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